

# City of Dublin Consolidated Impact Fee Administrative Guidelines

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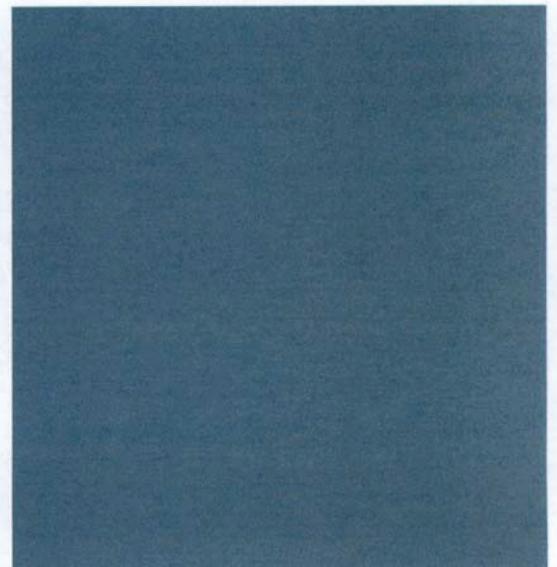


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## Table of Contents

I.	Introduction/Overview .....	1
II.	Authority of City Manager to Interpret Situations Not Covered .....	1
III.	Fee Administration .....	2
	A. Responsible Departments.....	2
	B. Effective Fees.....	2
	C. Basis for Calculating Fees for Projects not Covered in Fee Resolutions.....	2
IV.	Payment Records .....	4
V.	Other Miscellaneous Administrative Guidelines .....	4
	A. Refunds .....	4
	B. Annual Review of Fee Collection.....	4
	C. Funds and Accounting .....	5
	D. Exemptions .....	5
	E. Administrative Fees .....	6
VI.	Developer Fee Credits.....	7
	A. General.....	7
	B. Fee Credit/Reimbursement Agreement Required .....	7
	C. Calculating the Fee Credits .....	8
	D. Use of Fee Credits.....	9
	E. Use of Fee Credits requires Completion of Facility or Performance Bonds.....	10
	F. Transferring of Credits.....	10
	G. Options At or Prior to Expiration of Credit Life.....	10
	H. Reimbursement Rights (Excluding EDTIF Section II Residential BART Garage Fees)....	11
	I. Process for Reimbursement of Reimbursement Rights .....	11
	J. Procedures for Construction of Designated Facilities by Developers.....	12
	K. Guidelines for Issuing Trip Credits for Transportation Impact Fees .....	13
	L. Eastern Dublin Traffic Impact Fee-Section II Residential BART Garage.....	13

Appendix A: Illustrative Examples

Appendix B: Previous Fee Resolutions

# **CITY OF DUBLIN CONSOLIDATED IMPACT FEE ADMINISTRATIVE GUIDELINES**

## **I. Introduction/Overview**

These guidelines apply to the Western Dublin Transportation (formerly known as the Downtown Traffic) Impact Fees (adopted by the City Council of the City of Dublin through Resolution 210-04 and as subsequently amended), the Eastern Dublin Traffic Impact Fees (adopted by the City Council of the City of Dublin through Resolution 1-95 and as subsequently amended), the Public Facilities Fees (adopted by the City Council of the City of Dublin through Resolution 32-96 and as subsequently amended), the Fire Facilities Fees (adopted by the City Council of the City of Dublin through Resolution 37-97 and as subsequently amended), the Noise Mitigation Fee (adopted by the City Council of the City of Dublin through Resolution 33-96 and as subsequently amended), and the Non-residential Development Affordable Housing Impact Fee (adopted by the City Council of the City of Dublin through Resolution 70-05 and as subsequently amended) which fees are, unless otherwise provided, hereinafter referred to as the "Fee" or "Fees." Except as otherwise provided herein, terms used in these guidelines shall be defined in the same manner as such terms are defined in the Resolution.

The application of these guidelines will, at times, refer to various reference documents adopted by the City of Dublin. These documents include the City's General Plan, Specific Plans, and the most recent Impact Fee Studies. Such reference documents are subject to change and may affect the application of these guidelines.

## **II. Authority of City Manager to Interpret Situations Not Covered**

Should situations arise not covered by these guidelines, the City Manager will have the authority to determine how the resolutions, ordinances, guidelines and agreements will be administered. Such interpretations by the City Manager will be in writing, and the City Manager's determination will be final and not appealable.

### **III. Fee Administration**

#### **A. Responsible Departments**

The Administrative Services Department serves as the lead department to gather and coordinate the information necessary to calculate the Fee. The Community Development Department is responsible for determining the intended land use. The Public Works Department is responsible for determining the number of vehicle trips assigned to the project.

#### **B. Effective Fees**

The Fee will be collected at the filing of final map and/or at the issuance of building permit for the development project, unless otherwise provided in the applicable Fee Resolution, or developer enters into a fee deferral agreement with the City. This section shall be applicable whether the fees are paid in cash or a credit is used.

#### **C. Basis for Calculating Fees for Projects not Covered in Fee Resolutions**

The Fees for projects will be calculated as provided for in the Fee Resolutions. However, in certain circumstances, the applicable resolutions may not appropriately reflect or apply to a particular project. Examples of this situation could include, but not be limited to mixed use projects or projects that involve land uses that are not included in the Resolution. In those situations, the guidelines presented in this section will be applied.

For non-residential development projects in which the land use is not included in the definitions contained in the applicable Fee Resolution, the Community Development Director will determine which of the defined categories is appropriate, maintaining as much consistency as possible with the definition of such terms.

For mixed-use development projects in all fee programs other than the Western Dublin Transportation Impact Fee, the Community Development Director will determine the projected percentage of each of the uses at the time the Final Map, other appropriate entitlement, or building permit is approved. The Fee will be calculated on a pro-rata basis for each different use. If the project contains both residential and non-residential portions, the Fee will be based upon the residential per dwelling unit fee schedule for the residential portion and the non-residential per square foot schedule for the non-residential portion. (Note that the Western Dublin Transportation Impact Fee directly addresses the effects of mixed-use development.)

If the use(s) are unknown at the time of obtaining a building permit and the building permit does not include adequate interior details to determine the intended use, the use for the initial fee calculation purposes will be determined by the Community Development Director. Any Fee discrepancy as a result of a different final use of the property will be calculated and reconciled at the time that a building permit is issued for interior tenant improvements. Such reconciliation may result in an additional Fee or a partial refund of previously paid Fee(s). This fee calculation shall be at the rate in effect at the issuance of building permit.

Quasi-public uses (churches, non-profit organizations, etc.) shall be subject to the Fees. For these uses, the Community Development Director will determine which of the categories most appropriately reflects the land use and allocate the project to this category. Affordable housing projects developed by government agencies and/or non-profit entities will be subject to the same Fees that are assessed on private residential development.

Where the Fee in question is calculated based on trips generated, the Fee Schedule of the applicable Approving Resolution for the Fee will define appropriate trip rates to be used for the calculation of the Fees. If an applicant disagrees with the Fee calculated based on trips generated by the proposed project per respective Fee program, including but not limited to quasi-public uses, applicant may make a written request to the Public Works Director, requesting that the City undertake a specific traffic study for the purpose of determining the estimated trip generation of the proposed development project. The applicant shall be responsible for all costs associated with the study.

If the Public Works Director determines that the land use of the proposed development project is not appropriately reflected in the Fee Schedule to the Resolution or that the intensity of the proposed land use is not consistent with the adopted land use categories in the Fee Schedule to the Resolution, the Public Works Director will have the option of requiring a traffic analysis or utilizing an existing relevant study for the purpose of determining the estimated trip generation of the proposed development project. The applicant shall be responsible for all costs associated with the study.

#### **IV. Payment Records**

The Administrative Services Department will record the payment of the Fees. Records will be maintained to comply with refunding requirements as prescribed by State Law. The Administrative Services Department will obtain a mailing address from each payor, as well as the applicable Assessor's Parcel Number, and will note the payor as the entity or person whose name appears as the applicant for the building permit. The Administrative Services Department will maintain the records for a period of ten years from their collection, unless a legal mandate exists for a longer retention.

#### **V. Other Miscellaneous Administrative Guidelines**

##### **A. Refunds**

Refunds of Fees associated with withdrawn applications or projects on which construction has not commenced, will be done in accordance with the procedures outlined in the Dublin Municipal Code Section 7.28.450.

If, pursuant to said procedures for paid building permits, a refund is no longer available, and if, within 10 years of the original payment of the Fees, new building permits are issued for a project on the subject property, the developer of the new project shall be required to pay only the difference between the amount of the Fees that were originally paid, and the amount of the Fees in effect at the time of issuance of building permits for the new project. This calculation of the difference in Fee amounts shall be done on a Fee by Fee basis. Thus, if any one Fee is reduced or eliminated between the time of the original payment and the issuance of building permits for the new project, the original payment amount for that reduced or eliminated Fee shall not be included in the calculation of the amount owed for the other Fees.

##### **B. Annual Review of Fee Collection**

The City has existing procedures for complying with State Law in regards to accounting for developer Fees. The Administrative Services Department will maintain records to provide the following items:

- A brief description of the Fee;
- An identification of the improvements and the percentage of cost of the improvements which the Fee will be expended upon; and

- For improvements which are funded and yet to be completed, an identification of an expected date by which construction of the facilities will commence.

### **C. Funds and Accounting**

The City will incorporate the following items into its accounting procedures, which are the responsibility of the Administrative Services Department:

- The City will maintain a separate fund for the collection and expenditure of Fees.
- The City will allocate interest to Fees collected in the fund based upon month end cash balances.
- The City will identify, in accordance with State Law, the beginning and ending balance of the funds held for the Fee as of fiscal year end.
- The City will identify the amount of Fees collected and interest earned in each fiscal year for Fees.
- The City will provide a description and accounting of any inter-fund transfers made by the Fee Fund.
- The City will calculate reimbursements annually within 180 days of each fiscal year end.
- The City will file an annual accounting of all development impact fees with the City Council and for public inspection within 180 days of each fiscal year end.

### **D. Exemptions**

#### **1. Total Exemption. The following types of development will be exempt from the collection of Fees:**

- a) Any alteration or addition to a residential structure, except to the extent that a residential unit (e.g., second dwelling unit) is added to a single-family unit, or another unit is added to an existing multi-family building.
- b) Any replacement or reconstruction of an existing single-family residential structure that has been destroyed or demolished. This exception shall not apply to the extent that the replacement or reconstruction includes the addition of a residential unit (e.g., second dwelling unit).
- c) Any replacement or reconstruction of an existing multi-family residential structure without changing the use type as a residential structure that is not part of a mixed used development and that has been destroyed or demolished. This exception shall not apply to the extent that the replacement or reconstruction increases the number of residential units

on the property.

- d) Eastern Dublin Traffic Impact Fee only. Some of the retail uses within the Eastern Dublin Transit Center and the Fairway Ranch High-Density Residential Development may be considered ancillary to the adjoining residential uses and therefore may not generate outside vehicle trips. The Public Works Director shall provide the final determination of land uses that could be considered ancillary. If a land use is found to be not completely ancillary, an appropriate fee per trip will be charged in accordance with the provisions of these guidelines.
- e) The City Council, in its sole discretion, may waive the applicability of the Fee to certain development constructed or to be constructed by a public entity on land having an appropriate General Plan land use designation upon findings of the City Council that such a waiver is in the interest of the public health, safety, and/or welfare, for reasons specified in the findings.
- f) Any alteration or addition to a non-residential building or structure resulting in a net increase of no more than 500 square feet.

## **2. Partial Exemption – Applicable only to Western Dublin and Eastern Dublin TIF**

A partial exemption may be granted based on prior Fees paid as follows:

If after paying the Fees for a specific development project, the project is demolished and replaced by a new type of development, an exemption may be given for up to the amount which was paid by the prior development project. In the event that the replacement project would result in a lower Fee, the new development shall not accrue any unused credit or reimbursement rights. Any change in use outside of the establishment of the Fee program shall be obligated to pay the entire Fee except to the extent that another exemption applies. Any Traffic Impact Fees will be calculated using the procedures outlined in these Guidelines.

## **E. Administrative Fees**

Developers will pay the City administrative fees, provided the fees are established in the City's Master Fee Schedule, to cover the costs associated with:

- The establishment of the credit/reimbursement agreement
- Credit transfers
- Annual credit/Right to Reimbursement maintenance and monitoring.

## **VI. Developer Fee Credits**

This section applies only to the Western Dublin Transportation Impact Fee, Eastern Dublin Traffic Impact Fee, Public Facilities Fee, Fire Facilities Fee, Non-residential Affordable Housing Impact Fee and the definitions contained in the Resolutions establishing and amending said Fees shall apply. Unless otherwise indicated, all references to the "Fee" or "Fees" in this section shall mean only the Western Dublin Transportation Impact Fee, Eastern Dublin Traffic Impact Fee, Public Facilities Fee, Fire Facilities Fee, and Non-residential Affordable Housing Impact Fee.

### **A. General**

This section establishes the authority for providing credits and/or reimbursement to developers who construct and/or dedicate any of the improvements and facilities for which the Fees are imposed. When such public improvements and facilities are constructed and/or dedicated by a developer, the developer shall be given a credit when appropriate to be applied against the Fees due for the development project. The amount of the credit shall be determined pursuant to these guidelines. If the amount of the credit is greater than the Fees due for the development project, the developer may, subject to the restrictions described herein, use the credit toward the Fees for another development project or transfer the credit to another eligible developer in accordance with these guidelines. If the developer cannot use or transfer the credit within ten years, then the credit will convert to a reimbursement right unless the developer first extends the credits as provided for in Section VI.G of these Guidelines.

### **B. Fee Credit/Reimbursement Agreement Required**

The allotment of fee credits and/or provision for a reimbursement will only occur in accordance with a written credit/reimbursement agreement between the City and the developer responsible for the construction of the Fee facilities or dedication of land.

1. All fee credits will be granted by use of a standard agreement approved by the City Attorney.
2. This credit/reimbursement agreement will be entered into at the time the improvements are secured and/or the right-of-way is accepted for dedication. The terms of this agreement may, at the City's discretion, be included in the agreement entered into with the City to secure certain public improvements as contained on a Final Parcel Map or Final Subdivision Map.

3. Any credits, which are unused within ten years following their creation, pursuant to Section VI.G.a of these Guidelines, shall convert to a right to reimbursement, unless the developer first extends the credits as provided for in Section VI.G .b of these Guidelines.
4. Neither a credit nor the right to reimbursement shall either be increased for inflation or accrue interest. The park land right to reimbursement amount shall be based on land value at the time of dedication.
5. Credits are transferable, with the written approval of the City Manager, provided that the administrative fee is paid, as specified in these guidelines.
6. The developer will sign the fee credit/reimbursement agreement attesting that it obtained a copy of these administrative guidelines and they were read, understood, and accepted.
7. With respect to the Eastern Dublin Traffic Impact Fee and the Western Dublin Transportation Impact Fee, credits earned by constructing improvements can only be used to offset fees for that same category. The Fee for other categories will be paid by the developer as specified in these guidelines. Fee credits will not be mixed between the fee categories. For example, with respect to the Eastern Dublin Traffic Impact Fee, unused credits from Section I (Eastern Dublin Traffic Improvements) cannot be used to offset the Section II component of the Eastern Dublin Traffic Impact Fee.
8. With respect to the Eastern Dublin Traffic Impact Fee, no fee credits shall be established for the "Section II Residential BART Garage" component of the Fee. Payments from those monies shall be made in accordance with subsection VI.L below.
9. With respect to the Public Facilities Fee, the City Manager may approve the conversion of credits from one park land category to another park land category based on the land values conversion ratio, or may approve the conversation of credits from one park improvement category to another park improvement category. Park land credits cannot convert to park improvement credits nor can park improvement credits convert to park land credits. Any such conversion shall require an amendment to the credit/reimbursement agreement that documents the existing credits or a new credit/reimbursement agreement, if the credits have not been documented. Requests for conversion under this section must be made in writing and the decision to approve or deny a request is made at the sole discretion of the City Manager. The City Manager shall approve the conversion only if he or she finds that the conversion would not materially change the Public Facilities Fee program's ability to deliver the acreage in each category specified in the program. This provision does not apply to any other category in the Public Facilities Fee program.

## **C. Calculating the Fee Credits**

1. General

The fee credit/reimbursement agreement will identify the total credit for Fee improvements/facilities constructed or land dedicated for a particular development project. The contributed land or improvements must be the facilities described in the applicable Fee Resolutions and/or any subsequent replacement resolutions. There must be a minimum value of \$50,000 in improvements and/or right of way dedicated before credits will be allotted to a developer.

2. Determination of Value

The Public Works Director will determine the value of the contributed improvements/facilities based upon improvement plans submitted by the developer and approved by the City, which plans shall quantify the size of the Fee facilities to be constructed or dedicated. It is recognized that, in some cases, the scope of construction or dedication will not exactly match the Fee facilities shown in the exhibits to the Fee Resolution.

The credits will be the lesser of the following: a) the estimated cost of the improvements as noted in the Resolution and/or any subsequent replacement resolution; or b) the pro-rated value of the improvement using the standard cost measurements in the Resolution and/or any subsequent replacement resolution. The Fee credits cannot exceed the cost estimates of the improvements in the most recent Fee study and resolution. In no case shall the fee credits include facility financing costs. See **Appendix A** for illustrative examples 1 through 6, which pertain to this section.

**D. Use of Fee Credits**

1. Credits expire when used or 10 years from the date of the credit/reimbursement agreement, whichever occurs first.
2. Developer can request that a credit exists in perpetuity, with the exception of the Fire Facilities Fee. To exercise this option, Developer must make a written request to the City Manager or designee, and the credit will not be eligible to convert to a right to reimbursement.

The value of the credits will be listed in the agreement and applied as credits to the Fees as authorized by the developer. The City's Administrative Services Department will keep record of credit utilization and balance.

3. Only the developer who builds or dedicates the Fee facilities will be entitled to the

original or initial credits, until such time as they may be transferred in accordance with these guidelines.

#### **E. Use of Fee Credits requires Completion of Facility or Performance Bonds**

Fee credits cannot be used by the developer until the developer has either:

1. Dedicated the land or constructed improvements/facilities representing the credits to the City; or
2. Provided the City with a performance bond and a labor and materials bond or other adequate security to insure that the improvements will be constructed prior to the first Certificate of Occupancy for any building that is part of the project. The performance bond or other security shall be in an amount equal to 100% of the engineer's estimated cost to construct the improvements and the labor and materials bond shall be written by a surety licensed to conduct business in the State of California and approved by the City Manager or designee. See **Appendix A** for illustrative example 7, which pertains to this section.

#### **F. Transferring of Credits**

1. The original holder of credits can request a transfer of credits to a person owning an interest in property that is subject to the same category of the Fee in question. Such transactions shall be subject to an administrative fee, which shall cover the City's administrative costs associated with the credit transfer. The administrative fee shall be established in the City's Master Fee Schedule.
2. There is no limit on the number of times that credits can be transferred between developments.
3. In certain circumstances, and as required in the interest of equity, the City Manager may, at his or her sole discretion, authorize the transfer of credits to a person who does not own an interest in property subject to the Fee.

#### **G. Options At or Prior to Expiration of Credit Life**

At or prior to expiration of the credit, the developer has the following options:

- a) The expired unused fee credit shall automatically convert to a reimbursement right as provided for under these guidelines, unless Developer submits a written request for extension no more than six months prior and no less than three (3) months prior to the credit expiration date or with City Manager's approval if the request passes the City's required timeframe. The period for right to reimbursement extends ten (10) years from

the date of expiration.

- b) As an alternative, Developer can request that credits, other than credits created under the Fire Facilities Fee, exist in perpetuity and not convert to a right to reimbursement. To exercise this option, Developer must make a request, in writing, no more than six months prior and no less than three (3) months prior to credit expiration, or with City Manager's approval if the request passes the City's required timeframe. Developer must secure a written approval from the City Manager or designee for the request. Credits cannot be re-converted to a right to reimbursement.
  - o Developers that have Fire Facilities Fee credits that would exist in perpetuity may request that the credits be converted to a right to reimbursement with approval, in writing, by the City Manager.

## **H. Reimbursement Rights (Excluding Eastern Dublin Traffic Impact Fee Section II Residential BART Garage Fees)**

Reimbursement rights are created from the conversion of Fee credits, which occurs 10 years after the initial date of the credit/reimbursement agreement, or after credit extension. Right to reimbursement life is 10 years. Reimbursement rights are subject to the following specific guidelines:

1. Reimbursement will only be from funds that were collected in payment of the same Fee as the one for which a developer is seeking reimbursement.
2. The City will determine the amount of funds available for reimbursement on an annual basis based on Fee programs, such as the Eastern Dublin Traffic Impact Fee and Western Dublin Transportation Impact Fee, and the Public Facilities Fee programs.

## **I. Process for Reimbursement of Reimbursement Rights**

1. Determination of Funds Available for Reimbursement

Within 180 days of the end of each fiscal year, the Administrative Services Department will make an accounting of all Fees collected for the fiscal year that just ended. The Administrative Services Department will also determine, for each of the Fees, the amount of Fee funds that are unspent and unplanned. The remaining funds (the reimbursement set-aside) will be used to reimburse holders of reimbursement rights for facilities already contributed, if any such reimbursement rights exist.

2. Allocating the Reimbursement Set-Aside to Outstanding Reimbursement Rights

In the event that the City designates that a reimbursement set-aside is available, 50% will be used to pay the oldest reimbursement right outstanding. If the oldest right is paid off before this portion of funds is entirely consumed, then the balance of the 50% will go toward the next oldest right. This portion of reimbursement set-aside funds will be allocated according to this method until it is exhausted. The other half of the reimbursement set-aside will be allocated to all remaining reimbursement rights on a pro-rata basis according to their amounts outstanding, including the remaining un-reimbursed portion of the oldest agreement. Unused reimbursement set-aside funds will not be carried over to another fiscal year. See **Appendix A** for illustrative example 7, which pertains to this section.

This guideline does not apply to any Fire Facilities Fee reimbursement that was converted from a credit in perpetuity. Upon such conversion, the City Manager shall have the authority, in writing, to establish the right to reimbursement priorities for rights of reimbursement.

## **J. Procedures for Construction of Designated Facilities by Developers**

1. With respect to the Western Dublin Transportation Impact Fee and the Eastern Dublin Traffic Impact Fee, the improvements requested to be constructed or dedicated must be submitted for approval in writing to the Public Works Director no later than 30 calendar days prior to the approval of the Final/Parcel Map on the development project. Absent a Map, a letter must be submitted for approval prior to the approval of the improvement agreement. The submittal of the improvement plans and/or description of area to be dedicated shall be in sufficient detail, as determined by the Public Works Director, for the Public Works Director to make a determination regarding the approval. The developer constructing or dedicating improvements in lieu of paying a portion of the Fee must post a performance bond before the issuance of any grading and/or building permits for the construction of the improvements.
2. With respect to the Public Facilities Fee (PFF), developers may, with City approval, be permitted to design and construct facilities included in the FF program. The design and construction materials/methods must be in accordance with standard City specifications, and City inspectors shall be responsible for construction inspection throughout the duration of the construction period. The PFF Facilities to be constructed or dedicated by the developer must be submitted for approval in writing to the Public Works Director no later than 30 calendar days prior to the approval of the Final/Parcel Map or improvement program on the development project. The submittal of the improvement plans and/or description of area to be dedicated shall be in sufficient detail, including the layout of

timeline/milestones of the construction, as determined by the Public Works Director, for the Public Works Director to make an informed determination regarding the approval. The developer constructing or dedicating PFF Facilities in lieu of paying a portion of the Fee must post a performance bond and a labor and materials bond before the issuance of any grading and/or building permits for the construction of the PFF Facilities.

#### **K. Guidelines for Issuing Trip Credits for Transportation Impact Fees**

1. Trip credit shall be determined by the City based upon the adopted trip generation rates as specified in the Fee program. See **Appendix A** for illustrative examples 8 through 11, which pertain to this section.
2. Trip credits shall follow the land use and not the user. For example, assume User X relocates from Space A to Space B, both of which are located within the Western Dublin TIF area. User X shall not receive trip credit for vacating Space A. User X shall be charged the appropriate TIF amount for moving into Space B, subject to receiving trip credit as specified below. Similarly, the appropriate TIF amount shall be charged to the next user of Space A, subject to the appropriate trip credit.
3. Trip credit associated with unoccupied space shall be issued if, and only if, the space has been vacant for three (3) calendar years or less prior to the date when a use permit is issued to the new user.
4. TIF calculations/trip credit for uses, other than Urgent Care Medical Office, located within a general office building that houses multiple tenants (such as professional services, insurance companies, investment brokers, bank or savings and loan institutions, medical offices, restaurant or cafeteria, retail facilities, etc.) shall be based upon a uniform trip generation rate for Standard Commercial Office as specified in the Fee Program. For Urgent Care Medical Office use within a general office building, the trip generation rate for Clinic, as specified in the Fee program, shall be used to calculate the TIF and the trip credit.
5. Trip credit for uses located within a shopping center containing retail stores, as well as non-merchandising facilities (such as office buildings, movie theaters, restaurants, post offices, banks, health clubs, recreational facilities, etc.) shall be based upon a uniform trip generation rate for the appropriate type of Shopping Center as specified in the Fee program.

#### **L. Eastern Dublin Traffic Impact Fee-Section II Residential BART Garage**

1. Payment to Alameda County Surplus Property Authority (ACSPA) for \$6 million of BART Garage Costs (Section II Residential BART Garage).

With respect to the Eastern Dublin Traffic Impact Fee, payment of Section II Residential BART Garage Fees, payment shall be made to the Alameda County Surplus Property Authority (ACSPA), which is responsible for the parking garage construction and dedication of the improvement to the Bay Area Rapid Transit (BART) District for public use. Except for interest earned on Section II Residential BART Garage fees prior to distribution, the maximum amount to be paid to ACSPA shall not exceed \$6,000,000 (six million dollars). Payment to Alameda County Surplus Property Authority is subject to the following specific guidelines:

- a) The maximum to be disbursed from fees collected shall be six million dollars (\$6,000,000), which amount shall not be increased for any reason including inflation. In addition, any accrued interest pending disbursement shall be disbursed to ACSPA.
  - b) Disbursement will be only from the Eastern Dublin Traffic Impact Fee Section II Residential BART Garage fee, and will not come from any other source including the City's General Fund.
  - c) The amount disbursed will depend on the payment of fees by development subject to the fee. There is no guarantee that ACSPA will receive a total of \$6,000,000.
  - d) The City will determine and report on an annual basis to ACSPA, the amount of funds collected from the Section II Residential BART Garage fee and the amount available for disbursement, including interest accrued prior to disbursement, if any.
  - e) The procedure for distributing the disbursements to ACSPA is described below.
2. Process for Payment to ACSPA -Section II Residential BART Garage Fee Funds
- a) Initial Distribution of Section II Residential BART Garage Fee Funds
    - i. Once the BART Garage has been accepted by BART and made available for public use, the ACSPA shall provide to the City a written certification of the completion of the BART Garage.
    - ii. Within 45 days of receipt of the certification described above, City shall calculate the balance of funds available in Section II Residential BART Garage fee, as of the first day of the month preceding the date of the notice. City shall also calculate and account for accrued interest based on the quarterly balance of Section II BART Garage Fees and the earning rate applied to pooled funds managed by the City. City shall remit to ACSPA the funds as calculated along with a report showing the maximum remaining fees that may be paid to ACSPA.
    - iii. Thereafter, funds shall be distributed on an annual basis as described below.

b) Annual Determination of Section II Residential BART Garage Fee Funds Available for Payment

- i. Within 180 days of the end of each fiscal year, the Administrative Services Department will make an accounting of all Section II Residential BART Garage fees collected, and not previously disbursed, for the fiscal year that just ended. This shall include accrued interest.
- ii. The City shall distribute to ACSPA, Section II Residential BART Garage fees available, to the extent that the total distribution including previous payments, excluding any amounts paid as interest, does not exceed the maximum amount described above.
- iii. The Administrative Services Department shall annually report to the ACSPA the current balance remaining in Section II Residential BART Garage fees that may be paid.

## **Appendix A: Illustrative Examples**

*Illustrative Example 1 (Eastern Dublin Traffic Impact Fee or Western Dublin Transportation Impact Fee):* Assume that a developer dedicates land for the partial widening of a major street to offset the Fees due from a development project. To qualify for a credit, this roadway widening project must be included in the Western Transportation Impact Fee program. The land dedication to be applied for a Fee credit shall not include improvements immediately adjacent to the development project, as these improvements are entirely the responsibility of the developer and are not to be funded by the Fee. The Resolution used a standard cost measurement on the current value per square foot for right-of-way dedication in calculating the TIF. The Fee credits due to the developer can be calculated by determining the square footage of the land to be dedicated multiplied by the proper square foot cost measurement after automatic annual adjustments based on the change in land acquisition costs.

*Illustrative Example 2 (Western Dublin Transportation Impact Fee):* A Developer constructing multi-family homes contributes traffic signal improvements (TIF improvement) valued at \$200,000. Assume that the Fee at the time totals \$2,497 per dwelling unit. The credit of \$200,000 will cover approximately 80.10 dwelling units. When the building permit is issued for the 81st dwelling unit, the developer will have used up the credit and will have to begin paying the Fee.

*Illustrative Example 3 (Eastern Dublin Traffic Impact Fee):* A developer constructing single family homes contributes traffic signal improvements (Section I improvement) valued at \$200,000. Assume that the Traffic Impact Fee at the time totals \$9,062 per home, which is comprised of the Section I portion of \$7,207 and the Section II portion of \$1,855. The credit of \$200,000 can only be used against the developer's Section I Fee of \$7,207 per home, which will cover approximately 27.75 homes. When the building permit is issued for the 28th home, the developer will have used up the credit and will have to begin paying the Section I Fee. The Section II portion of the Fee must be paid at the issuance of each building permit for all homes included in the development, as the Section I credit cannot be used to offset these portions of the Fee.

*Illustrative Example 4 (Public Facilities Fee):* Assume that a developer improves 10 acres of land for a planned 20 acre community park to offset the Fees due for the Community Parks Improvement fee component. The last adopted fee study used a standard cost estimate of \$420,000 per acre for calculating the cost of improved community parkland. The fee credit due to the developer will be calculated using this cost estimate (10 acres, \$420,000 per acre = \$4,200,000).

*Illustrative Example 5 (Public Facilities Fee):* A developer constructing single family homes in Dublin contributes neighborhood park improvements valued at \$200,000. The Neighborhood Parks Improvements portion of the Fee for a single family home is \$2,280 of the total Fee of \$32,643. The developer must pay a Fee of \$30,363 for each single-family home (total Fee of \$32,643 less credit of \$2,280) until the \$200,000 credit is used up. This credit will cover the Neighborhood Parks, Improvements component of the Fee for the first 87 single-family homes constructed ( $\$200,000/\$2,280 = 87.72$ ). When the developer applies for the building permit for the 88<sup>th</sup> home, he or she will begin paying this component of the Fee with the balance of the Public Facilities Fee due for the project.

*Illustrative Example 6 (Eastern Dublin Traffic Impact Fee or Western Dublin Transportation Impact Fee):* A developer is constructing certain street improvements, which will be dedicated to the City to offset a portion of the Fee. The improvements are a project in Fee Program. The developer supplies the City with a right-of-way conveyance, a performance bond and a labor and materials bond for the completion of the street improvements. Fee credits can be used in advance of completing the improvements, since the City is assured that the land will be dedicated and the improvements will be completed.

*Illustrative Example 7 (Eastern Dublin Traffic Impact Fee):* During one fiscal year, the City collects \$88,000 in Fees for Eastern Dublin TIF improvements. The total outstanding reimbursements owed for the Eastern Dublin TIF are \$100,000 to the following developers:

Developer A (the oldest agreement):	\$50,000
Developer B:	\$20,000
Developer C:	\$30,000

For the upcoming fiscal year, the City retains \$44,000 for improvements not built by developers and allocates \$44,000 as the reimbursement set-aside to reduce current reimbursement obligations. \$22,000 (50% of the \$44,000) of the reimbursement set-aside is used to pay Developer A, who holds the oldest agreement. Developer A now has \$28,000 of outstanding reimbursements (beginning balance of \$50,000 less the \$22,000 payment). The other half of the reimbursement set-aside (\$22,000) is allocated proportionally to all three parties who currently hold reimbursement rights as follows:

Holder of Reimbursement	Current Value of Reimbursement Owed	Percent of Total Reimbursements Outstanding	Amt. of \$22,000 Reimbursement Distributed	Reimbursement Balance Remaining
Developer A	\$28,000	35.90%	\$7,898.00	\$20,102.00
Developer B	\$20,000	25.64%	\$5,640.80	\$14,359.20
Developer C	\$30,000	38.46%	\$8,461.20	\$21,538.80
TOTAL	\$78,000		\$22,000.00	\$56,000.00

**Illustrative Example 8 (Western Dublin Transportation Impact Fee):** User X moves his/her fast food restaurant business into an individual (standalone) building located within the Western Dublin TIF area. Previous use of the building consisted of a sit-down restaurant, which was vacated approximately two years prior to User X obtaining his/her use permit. Would User X be entitled to trip credit?

*Answer:* Yes, because the previous use was vacated only two years before he/she would be entitled to trip credit for the previous sit-down restaurant use which generates fewer trips than a fast food restaurant. User X would pay TIF based on the net trips estimated for his/her project.

**Illustrative Example 9 (Western Dublin Transportation Impact Fee):** User X (insurance company office) and User Y (dental office) occupy office space in two separate general office buildings (building A and building B, respectively). Both buildings are located within the Western Dublin TIF area. The two users have decided to switch office spaces (e.g., User X would relocate to the space in building B and User Y would relocate to the space in building A). Would either user be required to pay TIF?

*Answer:* No, because as each user moves into the other space, he/she would receive full trip credit for the previous use, based on the uniform trip generation rate for Standard Commercial Office as specified in the Fee program. Note: Although User Y operates a dental office, which generates more trips than an insurance company office (User X), the same trip generation rate (i.e., Standard Commercial Office) is used in both cases to calculate the TIF, as both uses are proposed to take place within a general office building.

**Illustrative Example 10 (Western Dublin Transportation Impact Fee):** User X proposes to change the use of his/her individual (standalone) space within the Western Dublin TIF area from Health Club to Bowling Center/Video Arcade. How would the TIF be determined?

*Answer:* The TIF would be determined based on the net change in trips estimated for the proposed project. For example, User X would be charged TIF based on the proposed Bowling

Center/Video Arcade use, but would receive trip credit for the discontinued Health Club use.

*Illustrative Example 11 (Western Dublin Transportation Impact Fee):* User X proposes to establish an Urgent Care Medical Office within a general office building by replacing existing retail/restaurant uses located on the first floor of the building. How would the trip credit be determined?

*Answer:* The trip credit would be determined based on the trip generation rate for Standard Commercial Office. Note: The TIF would be based upon the increase in trips due to the proposed project (e.g., the difference between Clinic trips and Standard Commercial Office trips).